

3-000 Service Standards for Home and Community-Based Services for Persons with Mental Retardation or Related Conditions

3-001 Client Rights: The provider shall promote client rights and ensure that client rights are protected. Each individual with mental retardation or related conditions is considered to be capable of exercising his/her rights unless legally determined to be incapable of doing so.

3-001.01 Provider Policy and Procedures: The provider, both in written policy and practice, shall ensure that clients have the right and necessary support to -

1. Be treated with dignity and respect;
2. Receive services without regard to race, color, religion, sex, disability, marital status, national origin, or age;
3. Receive a program orientation;
4. Make choices and participate in decision making;
5. Receive appropriate services in accordance with their assessed needs, designed to maximize their potential;
6. Receive the least restrictive services;
7. Receive services in safe and sanitary settings;
8. Exercise the same civil rights as other citizens;
9. Maintain privacy;
10. Have personal possessions;
11. Participate in personal financial decisions. (If client funds are managed by the provider, the full and accurate accounting shall be available);
12. Communicate freely by sealed mail, telephone, or other forms of communication;
13. Be protected from exploitation when engaged in training and productive work, in accordance with state and federal wage and labor laws;
14. Be free from neglect and abuse (physical, verbal, psychological, or sexual);
15. An appropriate and nutritious diet;
16. Receive appropriate medical treatment; and
17. Receive due process in the handling of grievances.

The provider shall document in the client record that the client and/or his/her legal guardian was informed of these rights upon initial acceptance of provider services.

3-001.02 Abuse and Neglect: The provider shall ensure that clients served shall be free from abuse/neglect. The provider shall ensure that all staff with direct client contact have not been involved in adult or child abuse/neglect and that staff have been checked for reports through the DSS Central Registries. Any staff with a registry report of adult or child abuse/neglect shall not provide services to waiver clients.

The provider shall have and implement policies and procedures related to abuse and neglect. These policies and procedures must -

1. Define neglect and abuse consistent with Nebraska law;
2. Describe the mechanism for reporting instances of neglect or abuse consistent with Nebraska law;
3. Describe the mechanism for reviewing all allegations of neglect or abuse and document findings, actions taken, and methods to be used to prevent further abuse/neglect situations; and
4. Describe the means by which due process is provided to the client and the staff in cases of alleged abuse or neglect.

3-002 Individual Program Plan: All waiver clients shall have an individual program plan. The IPP shall include assessments identifying the individual's strengths, needs, preferences, and maximum units of service. It shall also include goals, objectives, and services to meet the needs and maximize the independence and achievements of the individual. The IPP is developed annually and reviewed at a minimum of semi-annually with updating as applicable.

Reviews shall be documented and evaluate the IPP as a single, integrated plan assessing progress and/or barriers to progress as well as actions needed.

3-002.01 IPP Team Composition: The IPP is developed by an Interdisciplinary Team. All Team members who serve on the Team in a capacity that requires a license or certification in Nebraska shall meet the statutory requirements as set out in the Uniform Licensing Law.

3-002.01A Required IPP Team Members: The following Team members must be present at and participate in the development of the IPP:

1. The individual, unless the individual is unable or unwilling to attend. If the individual is not present, the Team shall document the reason and address strategies or adjustments to be made to allow for future participation;
2. The individual's legal representative, if applicable. If the legal representative is unable to attend, the IPP must document -
 - a. Whether the legal representative was invited;
 - b. Why the legal representative could not attend;
 - c. Whether the legal representative had any input into the IPP; and
 - d. That a copy of the IPP was provided to the legal representative;
3. The individual's family, unless documentation indicates that such participation is inappropriate or unobtainable;
4. The client's Case Manager;
5. If in day services, the client's day services direct service staff; and
6. The client's residential services direct service staff (required only for those receiving Habilitation Services or Independent Skills Services).

3-002.01B Additional IPP Team Members: The following may be included as Team members in development of the IPP as appropriate to the individual client:

1. Psychologist;
2. Physician;
3. Speech Pathologist or Audiologist;
4. Physical Therapist;
5. Occupational Therapist;
6. Dietitian;
7. Pharmacist;
8. Dentist;
9. Nurse;
10. Other Agency Staff;
11. Staff from Other Agencies;
12. Client Advocate; or
13. Others.

Written evaluations or other written materials may be submitted in lieu of attendance provided that a present Team member can relay/interpret materials to the Team.

3-002.02 Assessments: The provider shall conduct individual assessments, as determined by the team, to identify the strengths, needs, and preferences of the client. The need for assessment in each of the following developmental domains shall be considered: physical development and health, sensorimotor development, communicative development, social/affective development, cognitive development, independent living skills and leisure/personal skills.

3-002.02A Required Disciplines: The following disciplines must annually submit a new or updated assessment:

1. Day services (required only for those receiving day services);
2. Residential services (required only for those receiving Habilitation Services or Independent Skills Services);
3. Medical (may be waived with written documentation from the physician); and
4. Dental (may be waived with written documentation from the dentist).

Other assessments by optional discipline areas/agencies may be required annually if determined necessary by the interdisciplinary team.

3-002.02B Incorporation into the IPP: The assessments are part of the Individual Program Plan and should be reviewed annually with the team. Assessments should be available to all team members. Copies of each discipline's evaluation/assessment shall be attached to the IPP and sent to all disciplines who receive the IPP or a written summary of assessment findings shall be included in the IPP. If there are discrepancies between/among the discipline evaluations, these discrepancies must be clarified in the IPP.

3-002.03 Identifying Information: The following identifying information must be contained in the annual IPP:

1. Name of client;
2. Date of annual Individual Program Plan;
3. Date of birth;
4. Admission date (to waiver services);
5. Name of primary relative/guardian;
6. Name of case manager;
7. Diagnosis;
8. Medical conditions;
9. Medications - dosage and purpose; and
10. Services needed and services provided.

3-002.04 Services: The agency shall provide habilitation to promote independence based upon the team's prioritization of the client's identified strengths, needs, and preferences.

All persons implementing the program plan must be knowledgeable of and able to accurately implement the plan.

3-002.04A Service Needs: Service needs/staff objectives are those services provided to the client to meet identified needs that may not be met through formal programming, such as appointments, medication administration, further evaluations, assistance, and supervision. The provision of these services, as well as the frequency and discipline responsible for providing the services, must be specified in writing in the IPP.

3-002.04B Long-Term Goals: The team shall identify in writing in the IPP long-term goals for all formal training to be provided to the client. The long-term goal should be the culmination of its short-term objectives. The long-term goal must be -

1. Client-centered;
2. Stated in specific, observable, and measurable terms so that the level of skill acquisition can be assessed; and
3. Achievable within the year.

3-002.04C Short-Term Objectives: The team shall identify in writing in the IPP short-term objectives for each long-term goal. Objectives must be stated in terms of the individual client's potential and sequenced in such a manner as to show progression from dependence to independence. Objectives must be -

1. Client-centered; and
2. Stated in specific, observable, and measurable terms so that the skills achieved can be assessed.

The discipline area/person responsible for the implementation of the program must be stated as part of the plan.

3-002.04D Maladaptive Behaviors: For all clients who exhibit maladaptive behaviors, with the exception of maladaptive behaviors which occur infrequently (i.e., less than once a month) and do not impede progress toward independence, the IPP must identify a corresponding long-term goal and short-term objectives. If the maladaptive behavior is infrequent, does not impede progress toward independence, and the team does not feel that formal programming is in order, an intervention procedure must be developed and implemented consistently.

Behavior management procedures must be in accordance with 480 NAC 3-003 ff.

3-002.04E Medication to Manage Behavior: Medications to manage behaviors are considered a restriction of an individual's rights. For all clients taking medications to manage behaviors, the following must be addressed and documented in the IPP:

1. Name of medication, dosage, reason for medication, and behavior to be affected by medication;
2. Whether the use of the medication was reviewed by the agency's review committee; and
3. Whether the drug is reviewed on an ongoing basis by a physician.

3-002.05 Rights and Restrictions: The IPP shall address and document measures taken to enable the client to exercise civil and legal rights.

3-002.05A Legal Status: The team shall address and document the client's legal status: whether the client is legally competent, has a full or partial guardian, or a conservator. The team shall also address the appropriateness of this and actions to be taken, if needed, to improve the situation.

3-002.05B Restriction of Rights: The team shall not unduly restrict client rights. Should a restriction be imposed on the client, the team shall address and document the rationale and plan to reduce the restriction. Clients shall not be unduly restricted due to the behaviors of others, for the convenience of staff, or as a substitute for habilitation/supervision.

Restrictions of client rights does require written consent from the client or client's legal guardian, as appropriate.

3-002.06 Self-Sufficiency Plan: The IPP must be a plan for the client to acquire skills, enhance choice in self-management, and reduce deficits that are barriers towards a less restrictive alternative. The annual IPP must address the appropriateness of current services and identify the types of services and residential living situation the client would need if waiver services were terminated.

3-002.07 Units of Service: Once the team has reviewed the assessed strengths and needs and prioritized needs to be addressed, the team will identify the number of units of waiver services to be provided.

3-002.08 Implementation: Once the Individual Program Plan is developed and the interdisciplinary team has determined the services to be provided to the individual, the agency shall implement the IPP as written.

3-002.08A: Formal training programs must be written based on the long-term goals and short-term objectives. Formal training programs must include -

1. What the individual must do to perform the skill/behavior;
2. What staff will do to assist the individual;
3. Criteria for measurement;
4. Data collection method and schedule;
5. Conditions needed for training;
6. Materials needed;
7. Staff authorized to implement and monitor the program; and
8. Reinforcement type and schedule.

3-002.08B: All training programs must be implemented within 30 days from the IPP meeting date. Until implementation of any new training programs, those programs identified in the previous IPP will be in effect.

3-002.08C: The agency shall document changes in program methodology on the formal training program prior to implementation.

3-002.08D: The staff members responsible for implementing the services described in the IPP must have been trained on the proper procedures prior to implementation.

3-002.08E: The agency shall implement all services as scheduled.

3-003 Behavior Management: The provider shall ensure that efforts are made to develop behaviors that are adaptive and appropriate for the purpose of enhancing the client's development. Those efforts should stress positive approaches in addressing client behaviors. The use of mechanical restraints, seclusion, and aversive stimuli are not acceptable or allowable habilitation techniques under the waiver.

The provider shall establish a committee to provide prior review and approval of all programs that use restrictive procedures and issues related to research involving clients, for the purpose of ensuring that client rights are not violated. The agency shall have a review committee which includes -

1. Persons qualified to evaluate behavior management research studies/proposals and the technical adequacy of proposed behavior management interventions; and
2. A physician, pharmacist, or other professional qualified to evaluate proposals for the use of medications to manage behavior.

The provider shall have policies and procedures for this committee which must include -

1. A written description of the committee's responsibilities;
2. A written description of the committee selection criteria which includes the number of individuals on the committee, the length of the term served on the committee, and the qualifications required to serve on the committee;
3. A description of the process by which information from the committee is communicated to the providers; and
4. The format used to indicate the provider's response to the committee's recommendations.

The provider shall maintain a current list of committee members and minutes of each meeting, and the provider shall make these policies and procedures available to clients, their parents and/or legal representative, and staff.

3-003.01 Policies and Procedures: The provider shall have written and implemented policies and procedures on management of inappropriate client behaviors. These policies and procedures must be directed toward maximizing the growth and development of each individual client and emphasize positive approaches.

The written and implemented policies and procedures regarding behavior management and emergency procedures for managing inappropriate behavior shall -

1. Prohibit corporal punishment, seclusion, physical abuse, verbal abuse, psychological abuse, denial of a nutritionally adequate diet, clients disciplining other clients, and placing clients in a totally enclosed crib or other barred enclosure;

2. Specify and define intervention procedures that are approved to be utilized. Intervention procedures must not be used as punishment, for the convenience of staff, due to shortage of staff, as a substitution for habilitation, in quantities that interfere with the client's habilitation program and daily living, or in place of a behavior management program designed to address the inappropriate behaviors;
3. Specify that for the following behaviors there must be a behavioral intervention procedure to meet the needs:
 - a. Behaviors that are obstacles to an individual becoming more independent;
 - b. Behaviors that interfere with the client's ability to take part in habilitation;
 - c. Self-injurious behaviors; or
 - d. Behaviors that are a threat to others.
4. Specify staff training requirements. Training must be specific to the procedures to be implemented in the individual client's program;
5. Specify that methods to manage inappropriate behavior must be used only in a manner that protects the safety, well being, and civil and human rights of the client;
6. Specify that all behavior management programs must include procedures for developing desirable and adaptive behaviors and must not rely on reactive control procedures;
7. Specify that intervention procedures for inappropriate behavior must be based on assessment of the client's behaviors including assessment of the client's physical and social environment;
8. Provide that these policies and procedures must be communicated to and available to all staff, clients, family, and/or guardians;
9. Define and specify procedures governing facility use of restrictive or intrusive measures such as physical restraints, time out procedures, use of medications to manage maladaptive behaviors, and emergency use of restrictive measures;
10. Specify that less restrictive or less intrusive methods must be attempted and regularly applied and determined to be ineffective before the use of more restrictive measures. Also, specify how the provider will document the use of less restrictive measures and their ineffectiveness and the reasons that the use of more restrictive intrusive measures are necessary;
11. Specify that restrictive and intrusive procedures can only be used as an integral part of an individual behavior management program that is designed to lead to a less restrictive way of managing behavior and ultimately to the elimination of the behavior for which the restrictive procedure is used;
12. Specify that each plan utilizing restrictive or intrusive intervention procedures must be reviewed and approved before implementation by the client's Interdisciplinary Team, including the client or client's legal guardian, and by the agency's review committee; and
13. Specify that efforts will be made by the provider to strive to use the least restrictive and intrusive methods of intervention and dosages of medication for the management of the specified behavior.

3-003.02 Behavior Management Programs: The Interdisciplinary Team shall develop behavior management programs and document the program as part of the IPP. This includes a corresponding long-term goal (as specified in 480 NAC 3-002.04B) and short-term objectives (as specified in 480 NAC 3-002.04C).

3-003.02A: Behavior Management Programs must -

1. Identify the specific targeted behaviors and the adaptive behaviors to be increased;
2. Include provisions to teach the individual the circumstances under which the behaviors can be exhibited appropriately, to channel the behaviors into similar but appropriate expressions, or to replace the behaviors with behaviors that are adaptive and appropriate; and
3. Identify any modifications needed to be made to the client's physical and social environment which may affect the client's behavior.

3-003.02B: The behavior management program must be based on an assessment of the targeted behaviors and be maintained in the record that includes the following:

1. The antecedents of the behavior, including any social and physical environmental conditions which may contribute to the behavior;
2. The consequences of the behavior;
3. The frequency or duration of the behavior;
4. Measures or reports of the intensity or severity of the behavior;
5. An assessment of the potential causes of behavior that may be related to factors in the individual's life; and
6. Actions taken by the facility staff as a consequence of the behavior.

3-003.02C Utilization of Medication to Manage Client Behavior: "PRN" or as needed medications for behavior control are prohibited. Medication to manage client behavior must -

1. Be used only in conjunction with an approved behavior management program that is designed to lead to a less restrictive way of management of the behavior and ultimately to the elimination of the behavior for which the medication is used;
2. Be administered in conjunction with the program procedures approved by the interdisciplinary team and review committee before implementation. Should such medications be prescribed without prior knowledge of the team, the medications shall be given as prescribed. Program procedures and committee review shall be completed as soon as possible, but within no more than 30 days;

3. Be documented in the Individual Program Plan with the name of medication and dosage; reason for the medication and the specific behaviors to be affected by the medication; whether the use of the medication was reviewed by the agency's review committee; and whether the drug is reviewed on an ongoing basis by a physician;
4. Be used only in dosages that do not interfere with the individual's ability to take part in habilitation and daily living activities;
5. Include verification as specified in the provider's policy and procedure that a less restrictive and less intrusive method had been tried and systematically applied and determined to be ineffective before use of behavior modifying medication;
6. Require that the effectiveness of the medication in conjunction with the program is monitored and reviewed in accordance with the provider's policy and procedures;
7. Require that there is documentation that staff have been informed of potential side effects of the medication, in non-technical terms, so that staff can monitor for early detection of side effects;
8. Require that the Interdisciplinary Team evaluated and documented on the IPP that harmful effects of the behavior clearly outweigh any potential harmful effects of the use of the medication; and
9. Require that staff be responsible for monitoring on an ongoing basis, the behavior for which the medication is prescribed and the response of the client to the medication. Reports must be made to the physician based on this review.

3-003.02D Utilization of Time-Out Rooms: Time-out rooms may only be used under the following conditions:

1. The placement is a part of an approved behavior management program meeting criteria described in 480 NAC 3-003.02A;
2. The client is under the direct constant visual supervision of designated and appropriately trained staff;
3. If the door to the time-out room is closed, the door is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged;
4. Placement must not exceed one hour;
5. Clients placed in time-out rooms must be protected from hazardous conditions including, but not limited to, presence of sharp corners and objects, uncovered light fixtures, unprotected electrical outlets; and
6. A record of time-out activities must be kept.

3-003.03 Emergency Behavioral Intervention Procedures: Emergency procedures must be used in accordance with provider policy and procedure, and used only to prevent a client from causing harm to him/herself or others or causing considerable damage to the physical environment, when previous less restrictive measures have been determined to be ineffective. If these emergency procedures are used more than three times within a six-month period, these procedures must be incorporated as part of a written behavior management program.

3-004 Medical Restraints and Support and Protective Devices

3-004.01 Medical Restraints: Restraints or drugs may be used to facilitate treatment of an individual during a necessary medical or dental procedure.

3-004.01A: The provider must document that the procedure could not be administered with the use of less restrictive techniques. The restraints or medications must be ordered by a physician or dentist.

3-004.01B: Restraints may be used to promote healing after a medical procedure or an injury. The provider shall document -

1. The medical condition or injury;
2. That the use of the restraint is justified for the specific medical reasons; and
3. That a physician ordered the restraint, which is time limited and must be monitored and re-evaluated at regular intervals.

3-004.02 Support and Protective Devices: Mechanical devices used to provide support for the achievement of functional body position or proper balance or a device used for medical or post surgery care are support and protective devices. The use of and rationale for mechanical devices for support and protection must be documented in the Individual Program Plan. Documentation available to staff regarding the use of support and protective devices must include -

1. Identification of the device or support;
2. The purpose;
3. Instruction in proper application of the device;
4. The length of time and/or frequency of use; and
5. Provisions for monitoring and checking for proper application.

Support and protective devices shall not be used as a substitute for habilitation.

3-005 Case Management Standards

3-005.01 Qualifications of the Case Manager: See 480 NAC 4-004.01.

3-005.02 Case Management Services: For waiver clients, case managers are responsible for -

1. Arranging for, as needed, the ongoing assessment of a client's individual needs level and the requirement for support and services;
2. Facilitating the IPP Team meetings to develop a program plan identifying the client's support and service goals with specific objectives leading to those goals;
3. Coordinating resources to meet the client's identified needs for medical, financial, social, habilitation, educational, employment, housing, and other supports and services;
4. Recruiting and locating service providers that are consistent with the client's IPP;
5. Monitoring service delivery, on an on-going basis, to ensure it is effective and consistent with the client's IPP;
6. Reviewing the client's plan as appropriate to assess if the plan is effective and consistent with the client's needs with revisions as needed; and
7. Making at least one monthly contact with documentation of case management services performed for the client. This documentation shall include -
 - a. Reason for the contact;
 - b. Outcome of the contact; and
 - c. Further follow-up needed.

The case manager-to-client ratio must be at a rate that allows the case manager to appropriately perform all required duties for all clients on the case load.

3-005.03 Case Management Documentation Process: See 480 NAC 4-006.01.

3-005.04 Case Management Monitoring Process: The case manager shall develop and follow a system for periodic monitoring of the implementation of the IPP. Monitoring mechanisms should include -

1. A review of all components of the IPP to ensure delivery of services as specified by the IPP;
2. Initiation of any action necessary to ensure the delivery of services and progress toward achieving outcomes. Necessary action includes reconvening the team if a change in the IPP is necessary; and
3. A semi-annual review of the IPP by the case manager and Interdisciplinary Team. The team shall review client progress, implementation of the IPP, and the need for any revisions to the IPP.

3-006 Physical Environment and Related Services

3-006.01 Service Settings: Each setting certified under the waiver and the services provided in that setting must be in compliance with all applicable local, state, and federal laws and regulations on safety, sanitation, fire, health, and environmental safety codes as well as applicable licensure standards.

3-006.02 Records: The provider shall maintain records and reports of any applicable inspections required by local or state laws and regulations and shall document actions taken to correct deficiencies noted in the inspection reports.

3-006.03 Accessibility: All settings used in the provision of waiver services must meet the accessibility needs of the clients served. Clients shall not be denied services due to inaccessibility of the setting in which the services are provided.

3-007 Transportation

3-007.01 Adaptation: All vehicles used in the transportation of clients must be adapted to meet the needs of the clients served. Clients shall not be denied transportation services due to the lack of adaptation of vehicles.

3-007.02 Qualifications: Transportation shall be provided by an approved waiver provider that meets all applicable provider standards in addition to all applicable federal, state and local laws and regulations. Providers shall ensure that each individual employed to transport clients -

1. Has knowledge of state and local traffic rules;
2. Is willing to and capable of assisting disabled individuals in and out of the vehicle and to and from parking places, when required;
3. Will ensure the individual's safety in transporting;
4. Has a valid Nebraska driver's license;
5. Has received training in first aid and in meeting the needs of the specific individuals for whom transportation is provided.

3-007.03 Staffing: There must be an adequate number of staff persons on the vehicle to ensure safety and meet the needs of each client being transported.

3-008 Respite Care

3-008.01 Qualifications: Respite care shall be provided by an approved waiver provider that meets all general provider standards and all applicable federal, state and local laws and regulations. Approved providers shall ensure that individuals providing respite care are -

1. Age 19 or older;
2. Checked against the Adult Protective Services and Child Protective Services Abuse/Neglect Registries to ensure that there are no registry reports of abuse or neglect;
3. Employed based upon appropriate qualifications and experience; and
4. Trained to provide the necessary level of care prior to providing respite care. Training shall include training in -
 - a. Routine health care maintenance; and
 - b. Meeting the needs of the specific individuals for whom respite care is provided.

3-008.02 Out-of-Home Respite: If respite care is to be provided outside the client's home, the provider must -

1. Ensure that the facility is architecturally designed to accommodate the needs of the clients being served;
2. Have available an operable telephone;
3. Post emergency phone numbers by the telephone;
4. Ensure that the home/facility is accessible to the client, clean, in good repair, free from hazards, and free of rodents and insects;
5. Ensure that the facility or home is equipped to provide comfortable temperature and ventilation conditions;
6. Ensure that toilet facilities are clean and in working order;
7. Ensure that the eating areas and equipment are clean and in good repair;
8. Ensure that the home/facility is free from fire hazards;
9. Ensure that the furnace and water heater and any firearms, medications, and poisons are inaccessible to the client; and
10. Ensure that any household pets have all necessary vaccinations.